

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARISHELIA MOORE-JAMES

Claimant

VS.

UNIVERSITY OF KANSAS MEDICAL CENTER

Respondent
Self-Insured

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Docket No. 168,085

ORDER

Claimant appeals from an Award entered on August 25, 1995 by Administrative Law Judge Alvin E. Witwer. The Appeals Board heard oral arguments January 25, 1996.

APPEARANCES

The claimant appeared by her attorney Kathryn P. Barnett of Kansas City, Kansas. The self-insured respondent appeared by its attorney J. Paul Maurin III of Kansas City, Kansas.

RECORD AND STIPULATIONS

The Appeals Board has reviewed the record identified in the Award. The Appeals Board has also adopted the stipulations listed in the Award.

ISSUES

The Administrative Law Judge found:

- (1) Claimant failed to establish that she suffered accidental injury arising out of and in the course of her employment;
- (2) Claimant failed to establish that she gave timely notice as required by K.S.A. 44-520; and
- (3) Respondent was prejudiced by claimant's failure to provide notice.

Claimant appeals all three findings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that claimant has failed to meet her burden to establish that she suffered accidental injury arising out of and in the course of her employment. Claimant alleges and testified that she injured her back at work when she reached down to pull a chart from a lower shelf. Records and testimony of subsequent healthcare providers, including emergency room treating physician and physical therapist, contradict claimant's testimony. Claimant also testified that she notified her supervisor, Ms. Donna Barnes. Ms. Barnes'

testimony also contradicts claimant's version of the facts. As the Administrative Law Judge noted, Ms. Barnes adamantly denied that claimant ever reported an injury. In fact, Ms. Barnes testified she first became aware that claimant had received treatment for her back when claimant, months later, advised her she was having difficulty getting the bills paid by the health insurance carrier. Based upon review of the entire record, the Appeals Board agrees with the decision of the Administrative Law Judge finding claimant has failed to establish accidental injury arising out of and in the course of her employment.

WHEREFORE, the Appeals Board finds that the Award of Administrative Law Judge Alvin E. Witwer dated August 25, 1995, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Kathryn P. Barnett, Kansas City, KS
J. Paul Maurin III, Kansas City, KS
Alvin E. Witwer, Administrative Law Judge
Philip S. Harness, Director